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**UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA**

) Case No.
MICHAEL OUZIEL, individually and)
on behalf of all others similarly) Class Action Complaint For
situated,) Violations Of:
)
Plaintiffs,) 1. The Fair Debt Collection
) Practices Act, 15 U.S.C.
vs.) §§1692, et seq.; and
) 2. The Rosenthal Fair Debt
THUNDERBIRD COLLECTION) Collection Practices Act, Cal.
SPECIALISTS, INC., and DOES 1) Civ. C. § 1788 et. seq.
through 10, inclusive, and each of)
them,) <u>Jury Trial Demanded</u>
)
Defendant.)
)
)

Introduction

1. This case arises as a result of false, deceptive, and unfair debt-collection practices promulgated nationwide by Defendant, THUNDERBIRD COLLECTION SPECIALISTS, INC. (“Defendant”), in its collection letter campaigns wherein Defendant misrepresents consumer and debtor rights.
2. In particular, Plaintiff, MICHAEL OUZIEL (“Plaintiff”), alleges that within the year preceding the filing of this Complaint, Defendant attempted to collect debts from him and other consumers and debtors by systematically sending them mail based collection correspondence that overshadow the disclosure requirements under Federal and State statutes and making material misrepresentations that are inconsistent with the disclosure requirements aforementioned in violation of the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. §§ 1692g(a) & 1692g(b), and Rosenthal Fair Debt Collection Practices Act (“RDFCPA”), Cal. Civ. C. §1788 et. seq..
3. Furthermore, pursuant to *Cal. Civ. Code* §§ 1812.700(a) & (b), debt collectors subject to the FDCPA communicating with California consumers in connection with the collection of alleged debts must include the following disclosure language in their first written communication with California consumers:

"The state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another

1 person to confirm your location or enforce a judgment. For more
2 information about debt collection activities, you may contact the
3 Federal Trade Commission at 1-877-FTC-HELP or www.ftc.gov."

4 **4.** Plaintiff alleges that Defendant made such misrepresentations and omissions
5 in its communications with Plaintiff in connection with the alleged debt
6 described herein.

7 **5.** Such conduct is inherently deceptive and misleads the least-sophisticated
8 consumer.

9 **6.** Defendant's acts and omissions were intentional, and resulted from
10 Defendant's desire to mislead debtors and consumers into making payments
11 without apprising them of their rights under both Federal and State laws.

12 **7.** Thus, Plaintiffs bring class action claims against Defendant, under the Federal
13 FDCPA, which were enacted to "eliminate abusive debt collection practices by
14 debt collectors," 15 U.S.C. 1692(e).

15 **Jurisdiction and Venue**

16 **8.** The Court has jurisdiction over Plaintiff's FDCPA cause of action pursuant to
17 28 U.S.C. §1331 and supplemental jurisdiction over Plaintiff's RFDCPA
18 cause of action

19 **9.** Venue is proper in the Central District of California pursuant to 18 U.S.C. §
20 1391(b) because Defendant does business within the Central District of
21 California, and because Plaintiff is a resident of Los Angeles County,
22 California, which is within the Central District of California.

23 **The Parties**

24 **10.** Plaintiff is a natural person residing in Los Angeles County, State of
25 California who is allegedly obligated to pay a debt, and from whom a debt
26 collector seeks to collect a consumer debt which is alleged to be due and
27 owing, thereby rendering her a "consumer" under the FDCPA, 15 U.S.C.
28 §1692a(3).

11. Defendant is a company that uses any instrumentality of interstate commerce or the mails in its business, the principal purpose of which is the collection of any debts; it also regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another. Thus, Defendant is a “debt collector,” under the FDCPA, 15 U.S.C. §1692(a)6.

12. Furthermore, Defendant is a third party debt collector and is not an officer or employee of a creditor attempting to collect a debt on behalf of the same. Therefore, Defendant is not covered by either subsections (A) or (B) of section (6) of § 1692a of the FDCPA.

13. The debts Defendant attempted to collect from Plaintiff and the putative class members qualify as “debt(s),” under the FDCPA, 5 U.S.C. §1692a(5).

Factual Allegations

14. Within one (1) year preceding the filing of this class action lawsuit, Defendant mailed Plaintiff a collection letter dated April 27, 2018.

15. The alleged debt Defendant attempted to collect from Plaintiff is for \$876.90 originating from Cedars Sinai Endoscopy Center.

16. In the letter, Defendant wrote that “[Y]ou now have the opportunity to pay this account in full or we will report the debt to one or more of the three national credit bureaus after the 30th day from the date of this letter.”

17. Following this paragraph, Defendant then represented to Plaintiff that Defendant would assume the debt is valid unless Plaintiff notifies Defendant within 30 days of the letter’s date that Plaintiff disputes the debt.

18. But, Defendant’s threat regarding credit reporting immediately after thirty days, regardless of whether the validity of the debt is disputed, completely overshadows and obscures the 30 day validation notice.

19. Further, in the first half of the letter, Defendant makes no reference to consumers’ and debtors’ rights to request validation or dispute the alleged debts, and instead, Defendant represents to consumers and debtors that they

1 owe debts on which they must make immediate payments or Defendant will
2 report the debts on consumers' and debtors' consumer credit reports.

3 **20.**Defendant additionally failed to include the disclosure language required by
4 *Cal. Civ. Code* §§ 1812.700(a) & (b) in its letter to Plaintiff.

5 **21.**Additionally, Defendant's letter failed to advise Plaintiff that interest, late
6 charges, and other charges would occur such that the amount of the balance
7 sought was inaccurate.

8 **22.**Ultimately, these communications mislead Plaintiff as to the nature of his
9 rights. Furthermore, Plaintiff felt harassed, anxious, and annoyed as a result of
10 Defendant's conduct.

11 **Class Allegations**

12 **23.**Plaintiff brings this class action on behalf of himself and all others similarly
13 situated.

14 **24.**Plaintiff represents, and is a member of the following Class ("the Class"):

15 All persons residing in the United States, who, within
16 the one (1) year preceding the filing of this Complaint,
17 received collection correspondence from Defendant that
18 failed to disclose that daily fees and interest may be
19 incurred on the balance or that overshadowed the thirty
20 day validation period.

21 **25.**Plaintiff brings this class action on behalf of himself and all other California
22 residents similarly situated ("the California Class"):

23 All persons residing in the California, who, within the
24 one (1) year preceding the filing of this Complaint,
25 received collection correspondence from Defendant that
26 failed to disclose that daily fees and interest may be
27 incurred on the balance, overshadowed the thirty day
28 validation period, or failed to disclose in Defendant's

1 first writing the notice requirements of *Cal. Civ. Code* §
2 1812.700(a).

3 **26.**Collectively, the Class and California Class will be referred hereinafter as “the
4 Classes”.

5 **27.**As a result of Defendant’s conduct, Plaintiff and members of the Classes have
6 been deprived of accurate and valid information regarding their rights and the
7 obligations of debt collectors like Defendant. Defendant mislead Plaintiff and
8 the Classes into believing, through Defendant’s material omissions, that they
9 lacked certain rights and Defendant lacked certain obligations.

10 **28.**Defendant and its employees or agents are excluded from the Classes. Plaintiff
11 does not know the number of members in the Classes, but believes the Classes
12 members number to be in the tens of thousands, if not more. Thus, this matter
13 should be certified as a Class action to assist in the expeditious litigation of
14 this matter.

15 **29.** This lawsuit seeks statutory damages, actual damages, and injunctive relief
16 for recovery of economic injury on behalf of the Classes and is not intended to
17 request any recovery for personal injury and claims related thereto. Plaintiff
18 reserves the right to expand the Classes definitions to seek recovery on behalf
19 of additional persons as warranted as facts are learned in further investigation
20 and discovery.

21 **30.**The joinder of the Classes members is impractical and the disposition of their
22 claims in the Classes action will provide substantial benefits both to the parties
23 and to the court. The Classes can be identified through Defendant’s records or
24 Defendant’s agents’ records.

25 **31.**There is a well-defined community of interest in the questions of law and fact
26 involved affecting the parties to be represented. The questions of law and fact
27 to the Class predominate over questions which may affect individual Class
28 members, including the following:

1 a. Whether, within the one (1) year preceding the filing of this
2 Complaint, Defendant communicated with consumers in connection
3 with debt collection and:

4 i. Failed to disclose that daily fees and interest may be incurred
5 on the balance, overshadowed the thirty day validation period;

6 ii. Overshadowed the disclosures required by the FDCPA, 15
7 U.S.C. § 1692g(a); and

8 iii. Making representations to Plaintiff during the 30-day dispute
9 period –that are inconsistent with the disclosures required by
10 15 U.S.C. § 1692g(a).

11 b. Whether Plaintiff and the Class members were damaged thereby, and
12 the extent of damages for such violation; and

13 c. Whether Defendant should be enjoined from engaging in such
14 conduct in the future.

15 **32.**As a person who received the grossly inadequate and misleading collection
16 letter from Defendant, Plaintiff is asserting claims that are typical of the Class.
17 Plaintiff will fairly and adequately represent and protect the interests of the
18 Class in that Plaintiff has no interests antagonistic to any member of the Class.

19 **33.**There is a well-defined community of interest in the questions of law and fact
20 involved affecting the parties to be represented. The questions of law and fact
21 to the California Class predominate over questions which may affect
22 individual California Class members, including the following:

23 a. Whether, within the one (1) year preceding the filing of this
24 Complaint, Defendant communicated with consumers in connection
25 with debt collection and:

26 i. Failed to disclose that daily fees and interest may be incurred
27 on the balance, overshadowed the thirty day validation period;
28

- ii. Failed to disclose in Defendant's first writing the notice requirements of Cal. Civ. Code § 1812.700(a);
- iii. Overshadowed the disclosures required by the FDCPA, 15 U.S.C. § 1692g(a); and
- iv. Making representations to Plaintiff during the 30-day dispute period –that are inconsistent with the disclosures required by 15 U.S.C. § 1692g(a).

b. Whether Plaintiff and the California Class members were damaged thereby, and the extent of damages for such violation; and

c. Whether Defendant should be enjoined from engaging in such conduct in the future.

34.As a person who received the grossly inadequate and misleading collection letters from Defendant, Plaintiff is asserting claims that are typical of the California Class. Plaintiff will fairly and adequately represent and protect the interests of the California Class in that Plaintiff have no interests antagonistic to any member of the California Class.

35.Plaintiff and the members of the Classes have all suffered irreparable harm as a result of the Defendant's unlawful and wrongful conduct. Absent a class action, the Classes will continue to face the potential for irreparable harm. In addition, these violations of law will be allowed to proceed without remedy and Defendant will likely continue such illegal conduct, resulting in consumers who continue to lack notice of their rights and Defendant's obligations.

36.Because of the size of the individual Classes member's claims, few, if any, Classes members could afford to seek legal redress for the wrongs complained of herein.

37.Plaintiff has retained counsel experienced in handling class action claims and claims involving violations of the FDCPA and RFDCPA.

1 **38.**A class action is a superior method for the fair and efficient adjudication of
 2 this controversy. Class-wide damages are essential to induce Defendant to
 3 comply with federal and California law. The interest of Classes members in
 4 individually controlling the prosecution of separate claims against Defendant
 5 is small because the maximum statutory damages in an individual action under
 6 the FDCPA and/or RFDCPA are minimal. Management of these claims is
 7 likely to present significantly fewer difficulties than those presented in many
 8 class claims.

9 **39.**Defendant has acted on grounds generally applicable to the Classes, thereby
 10 making appropriate final injunctive relief and corresponding declaratory relief
 11 with respect to the Classes as a whole.

12 **First Cause of Action: Violation of the Fair Debt Collection Practices Act**

13 **On behalf of Plaintiff and the Classe**

14 **40.**Plaintiff incorporates by reference the preceding paragraphs of this Complaint.

15 **41.**A debt collector must not overshadow the disclosures required by 15 U.S.C. §
 16 1692g(a) during the thirty (30) day dispute period, which Defendant in fact
 17 did.

18 **42.**A debt collector must not make representations to consumers or debtors during
 19 the thirty (30) day dispute period that are inconsistent with the disclosures
 20 required by 15 U.S.C. § 1692g(b).

21 **43.**A debt collector many not make false representations regarding the amount of
 22 the debt, including by failing to advise that daily fees and interests are being
 23 incurred on a balance represented in a debt collection letter.

24 **44.**As a direct proximate result of Defendant's conduct, Plaintiffs and the Class
 25 have suffered actual damages and other harm, thereby entitling them to seek
 26 statutory damages in the amount of \$1,000.00 each, in addition to reasonably
 27 incurred attorney's fees and costs. 15 U.S.C. §1692k(a)(1)-(3)

28 **Prayer for Damages**

1 Wherefore, Plaintiff respectfully requests the Court grant Plaintiff and the
2 Class members the following relief against Defendant:

- 3 a. That this action be certified as a class action on behalf of The Class
4 and Plaintiff be appointed as the representative of The Class;
5 b. For statutory damages of \$1,000.00 for Plaintiff and each member of
6 The Class pursuant to 15 U.S.C. §1692k(a)(1)
7 c. For actual damages according to proof;
8 d. For reasonable attorneys' fees and costs of suit;
9 e. For prejudgment interest at the legal rate; and
10 f. For such further relief as this Court deems necessary, just, and
11 proper.

12 **Second Cause of Action: Violation of the**
13 **Rosenthal Fair Debt Collection Practices Act**
14 **On behalf of Plaintiff and the California Class**
15

16 **45.**Plaintiff incorporates by reference, the preceding paragraphs of this
17 Complaint.

18 **46.**A debt collector must make the disclosure required by *Cal. Civ. Code* §
19 1812.700(a) and must do so in its first writing to consumers in connection with
20 debt collection under *Cal. Civ. Code* § 1812.700(b) which Defendant failed to
21 do.

22 **47.**Furthermore, pursuant to §1788.17 of the RFDCPA: “[n]otwithstanding any
23 other provision of this title, every debt collector collecting or attempting to
24 collect a consumer debt shall comply with the provisions of Sections 1692b to
25 1692j, inclusive, of, and shall be subject to the remedies in Section 1692k of,
26 Title 15 of the United States Code. The references to federal codes in this
27 section refer to those codes as they read January 1, 2001.” *Cal. Civ. Code*
28 §1788.17.

1 **48.** Thus by engaging in conduct prohibited under the FDCPA as noted
2 immediately above, Defendant also violated the RFDCPA.

3 **49.** As a direct proximate result of Defendant's conduct, Plaintiff and the
4 California Class have suffered actual damages and other harm, thereby
5 entitling them to seek statutory damages in the amount of \$1,000.00 each,
6 actual damages and reasonably incurred attorney's fees and costs. *Cal. Civ.*
7 *Code* §1788.30.

8 **Prayer for Damages**

9 Wherefore, Plaintiff respectfully requests the Court grant Plaintiff and the
10 California Class members the following relief against Defendant:

- 11 a. That this action be certified as a class action on behalf of the
12 California Class and Plaintiff be appointed as the representative of
13 the California Class;
14 b. For statutory damages of \$1,000.00 for Plaintiff and each member of
15 the California Class pursuant to *Cal. Civ. Code* §1788.30.
16 c. For actual damages according to proof;
17 d. For reasonable attorneys' fees and costs of suit;
18 e. For prejudgment interest at the legal rate; and
19 f. For such further relief as this Court deems necessary, just, and
20 proper.

21 **Trial by Jury**

22 Pursuant to the seventh amendment to the Constitution of the United States
23 of America, Plaintiffs are entitled to, hereby does demand a jury trial.

24 Dated: December 19, 2018

25
26 By: /s/Todd M. Friedman
27 Todd M. Friedman, Esq.
28 **LAW OFFICES OF TODD M. FRIEDMAN, P.C.**
Attorneys for Plaintiff